IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 35447 of 2007(T)

OS.311/2007 of PRL.MUNSIFF COURT,THRISSUR
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PETITIONER:

M/S. MODERN MACHINE MANUFACTURES
PARTNERSHIP FIRM, EDAKKUNI VILLAGE, OLLUR
INDUSTRIAL ESTATE, THRISSUR TALUK, REPRESENTED BY
MANAGING PARTNER, K.M.ANTO, S/O. KOLENGADAN MANY,
EDAKKUNNI VILLAGE, DESOM, THRISSUR TALUK.

BY ADV. SRI.JIJO PAUL

RESPONDENTS:
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1. MANAGING DIRECTOR,
KERALA SMALL INDUSTRIAL DEVELOPMENT CORPORATION
LTD., SANTHI NAGAR, THIRUVANANTHAPURAM.

2. USHA,
OFFICER IN-CHARGE, KERALA SMALL INDUSTRIAL
DEVELOPMENT CORPORATION, OLLUR, THRISSUR DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.35447 of 2007

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Dated this the 5th day of December, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Principal Munsiff, Thrissur in O.S.No.311 of 2007 whereby the learned Munsiff directed the plaintiff to amend the plaint in order to determine the jurisdictional question. The suit is filed for permanent a injunction as well as for a declaratory relief. So far as Section 25 of the Court Fees Act is concerned, whether it is the subject matter capable of valuation or not is a matter that has to be considered by the court when proper amendment to the plaint is made by filing a valuation statement and incorporating the Section under which the relief is sought for.

2. Therefore, I set aside the order under challenge without going into the merits of the case and direct the plaintiff to amend the plaint so as to enable the court to decide the question correctly. Needless to say that the defendants can raise

objections and the matter be heard afresh and decided in accordance with law. I make it clear that the finding entered into by the learned Munsiff in this order is not binding on him for the said purpose. He can consider it afresh. I also direct the Munsiff to give necessary directions to the office, peruse the plaint properly before it is being numbered for the reason that the fundamental requisites of a plaint regarding the court fee and jurisdiction is seen absent in the plaint.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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